LICENSE—DELIVERY OF GOODS BY AGENT—INTER-STATE COMMERCE—STATE ET AL V. CALDWELL, 373 S. E. 178 (N. C.)—A license tax was required of all persons selling or delivering picture frames or pictures. This applied to agents who received the pictures and frames from their firm in another State. *Held*, not in violation of the United States Constitution, Art. I, Sec. 8.

The principles governing this case are authoritatively stated in *Robbins* v. *Selby County Taxing District*, 120 U. S. 489. The distinction the Court draws between goods delivered by the foreign firm directly to the consumer and indirectly through the agent seems doubtful.

MASTER AND SERVANT—EIGHT-HOUR DAY LAW—OVERTIME—EXTRA COMPENSATION—GRAY V. HALL, 66 N. Y. Sup. 500.—Chapter 385, Laws of 1870 of New York, enacts the customary eight-hour-per-day law, but permits overtime contracts for compensation. Plaintiff was employed under an agreement to receive a certain sum per day and proportionately for parts of a day. *Held*, work of over eight hours per day did not entitle him to additional compensation.

This seems a close question. Plaintiff, by agreement, was to receive a certain sum per day and proportionately for parts of days; and the statute provides a day to be eight hours, and plaintiff worked in excess of this time. But the Court held that the clause "part of a day" applied only to days on which plaintiff worked less than eight hours, and denied him relief. *McCarthy* v. *Mayor*, 96 N. Y. 1.

HUSBAND AND WIFE—ALIENATING HUSBAND'S AFFECTIONS—WIFE'S RIGHT OF ACTION—BETSER V. BETSER, 58 N. E. 249 (Ill.)—Action by wife for alienation of husband's affections. *Held*, the reason the wife was not allowed to maintain this action at common law was, that she could not sue without joining her husband as plaintiff. The reason of the rule is abrogated by the statute which allows a married woman to sue without joining her husband. Therefore she may maintain the action.

The law on this point is in an unsettled state in the United States. In Connecticut, it is held that a married woman may maintain the action independently of any statute. *Foote* v. *Card*, 58 Conn. 4. In other States it is held, as in the present case, that if a statute allows a married woman to sue alone, she may maintain this action. *Mehrhoff* v. *Mehrhoff*, 26 Fed. Rep. 13; *Logan* v. *Logan*, 77 Ind. 558; *Clow* v. *Chapman*, 125 Mo. 101, 46 Am. St. Rep. 468; *Bennett* v. *Bennett*, 116 N. Y. 584; *Gernerd* v. *Gernerd*, 185 Pa. St. 233, 39 Atl. 884; *Westlake* v. *Westlake*, 34 Ohio St. 621. In Massachusetts it is held that no such action can be maintained unless adultery is alleged. *Houghton* v. *Rice*, 174 Mass. 366, 54 N. E. 843; *Drocker* v. *Drocker*, 98 Fed. Rep. 702. Maine and Wisconsin are the only States which do not allow a wife to maintain this action. *Duffies* v. *Duffies*, 76 Wis. 374; *Morgan* v. *Martin*, 92 Me. 190. See also on this subject, 15 *Am. & Eng. Enc. of Laws* (second ed.) 864.

JURISDICTION—CIRCUIT COURT OF APPEALS—CASE INVOLVING A FEDERAL QUESTION—AMERICAN SUGAR REFINING CO. V. CITY OF NEW ORLEANS, 104 Fed. 2.—Action by the City of New Orleans to recover of the American Sugar Refining Company a license fee. Taken to the Circuit Court of Appeals and dismissed because it presented a case requiring the construction and application of the United States Constitution.

It is now the rule that in all cases which are controlled by the construction and application of the Constitution of the United States, a direct appeal lies to the Supreme Court. *Carter* v. *Roberts*, 20 Sup. Ct. 713. In the present case the pleadings showed that the jurisdiction of the Federal Courts did not rest entirely upon constitutional construction. It was based on diverse citizenship. In view of this the decision of the Circuit Court of Appeals declining to take jurisdiction would seem to be unwarranted, and the more so since the original dispute was not one in which the parties demanded a construction of the United States Constitution. *New Orleans* v. *Benjamin*, 153 U. S. 411.

MASTER AND SERVANT—RESPONDEAT SUPERIOR—CRAVEN V. BLOOMINGDALE —66 N. Y. Sup. 525.—Defendant's servant delivered goods to plaintiff which were bought from defendant. Said goods had a C. O. D. mark for an excessive amount. Plaintiff offered the right amount of the charge and refused to give up possession. *Held*, defendant's servant in having plaintiff arrested for theft, acted within the scope of his employment and bound his master in damages, said servant's employment being the driving of a delivery wagon and delivering goods.

The boundary line in nearly all jurisdictions is indistinct as to what constitutes the division between acts committed by a servant which are within and those without the scope of his employment. The present case seems an extreme one. In *Allen* v. *London, etc. Ry. Co.*, L. R., 62 B. 65, however, the same rule is announced, but in *Walton* v. *New York, etc. Co.*, 139 Mass. 556, a different doctrine is stated. See *Lubliner* v. *Tiffany & Co.*, 66 N. Y. Sup. 659.

MASTER AND SERVANT—CARE OF MASTER—SULLIVAN V. POOR ET AL.—66 N. Y. Sup. 409.—Where an elevator was defective, but the proprietor had an inspector's certificate stating it to be safe, and plaintiff's husband was killed by such defect, *held*, no recovery.

MEASURE OF DAMAGES—DECEIT—SIGAFUS V. PORTER, 21 Supreme Ct. 34 —In an action for $1,000,000 damages for false represetations as to the value of a mine, it was held that the measure of damages was the amount the person defrauded was actually out of pocket by reason of the fraud. Not the represented value minus the actual value, but the price paid minus the actual value. Justice Brown and Justice Peckam dissented.

The Court followed the rule of *Derry* v. *Peek*, 14 App. Cases 337. That is, actual loss by the deceit. The other rule, that the difference between the actual value and the representative value is the measure, is the rule laid down in *Morse* v. *Hutchins*, 102 Mass. 439.

MEASURE OF DAMAGES—NUISANCES—VANSICLEN V. CITY OF NEW YORK, 66 N. Y. Sup. 555.—Where defendant maintained a nuisance in the street in front of plaintiff's property, *held*, plaintiff's measure of damages, after abating the nuisance, was the diminished rental value of the property.

The usual rule in such cases is the market value of the property, *Colony Ry. Co.* v. *Evans*, 6 Gray (Mass.) 25, but the present case is strongly supported by *Francis* v. *Schoelkopf*, 53 N. Y. 152. See *Edg. Dam.* (eighth ed.) sec. 1203.

MUNICIPAL CORPORATIONS—GREATER NEW YORK CHARTER—CORPORATION COUNSEL—JUDGMENT—POWER TO CONFESS—BUSH V. O'BRIEN ET AL 58 N.E. 106 (N. Y.)—Suit in equity by a taxpayer, to restrain the collection of a judg-